

REMARKS

By this amendment, claims 1-8, 10-17, and 19-27 are pending, in which claims 1, 10, 19, 24, and 26 are currently amended. Claims 9 and 18 are canceled. No new matter is introduced.

The Office Action mailed December 29, 2003 objected to claims 24-25 and rejected claims 1-7, 10-16, 19-22 and 24-27 under 35 U.S.C. § 102 as anticipated by *Wang et al.* (US 6,636,505), claims 9 and 18 as obvious under 35 U.S.C. § 103 based on *Wang et al.* in view of *Gidwani* (US 6,640,239), and claims 8, 17, and 23 35 U.S.C. § 103 based on *Wang et al.*

In the interest of expediting prosecution, Applicants have amended independent claims 1, 10, 19, 24, and 26 to include features found in dependent claims 9 and 18. Independent claims 1 and 19 now recite “wherein **individual accounting information is processed for each of the plurality of end user stations.**” Amended independent claim 10 recites “wherein the remote access server processes **individual accounting information for each of the plurality of end user stations.**” Each of amended independent claims 24 and 26 recites “wherein **individual accounting information is processed for each of the plurality of hosts.**”

By contrast, as acknowledged by the Office Action, on page 4 with regard to the obviousness rejection of claims 9 and 18, “Wang et al. does not disclose processing accounting information for each of user stations.” Accordingly the Office Action relies on the newly applied reference of *Gidwani* (US 6640239) for such a supposed disclosure. In support of the rejection, the Office Action explains that “Gidwani discloses, in Fig. 1, billing server 128 processing charges to subscribers (processing accounting information),” citing col. 7, lines 1-5 and col. 20, lines 35.

Applicants respectfully disagree with the Office Action’s analysis and interpretation of the *Gidwani* reference. First, the Office Action appears to have ignored key features of the claims. The cited passages provide no support for the Office Action’s apparent contention that

Gidwani fills in the many gaps of *Wang et al.* For example, the language of the “remote access server processes individual accounting information for each of the plurality of end user stations” is not addressed, which is understandable as *Gidwani* provides no such disclosure. Second, the terse explanation by the Office Action of what *Gidwani* does disclose is in error; i.e., the Office Action contends that “*Gidwani* discloses . . . processing accounting information.” Applicants agree that the *Gidwani* system “illustrates a billing capability” (Col. 20, line 35) in general terms, but *Gidwani* is completely silent on the specific requirement that the “remote access server processes **individual accounting information for each of the plurality of end user stations,**” particularly in the context of the claims. The context of the disclosure by *Gidwani* is “to support the standard telephony capability and the voice over IP capability” (col. 20: 36). Thus, other than the term “billing,” this disclosure has no relevance to the claim features.

A close examination of the other cited passage, col. 7: 1-5, of *Gidwani* makes clear that the Office Action’s contentions are without a factual basis. This passage, in pertinent part, states the following:

The current invention enables a new tiered billing methodology based on a level of service agreement. For example, when the level of service agreement is exceeded, such as at peak time, a tiered billing agreement can exist and subscriber can be charged more based on exceeding the basic service agreement.

Similar to the other cited passage, at best, the above cited passage discloses, in general terms, a tiered billing methodology. There is no mention of the recitation that the “remote access server processes **individual accounting information for each of the plurality of end user stations.**” Accordingly, the addition of *Gidwani* does not cure the deficiencies of *Wang et al.* with respect to the above-claimed features.

Therefore, even assuming that the *Wang et al.* and *Gidwani* references were properly combined based on some teaching or suggestion in the references, and assuming the

modifications proposed in the Office Action were justified by additional teachings or suggestions found in the references, the combination still does not render the claimed invention obvious because none of the references, taken alone or in combination, teaches or suggests the capability of processing “**individual accounting information for each of the plurality of end user stations,**” as required the claims. Therefore, Applicants respectfully request indication of the allowability of amended independent claims 1, 10, 19, 24, and 26.

Dependent claims 2-8, 11-17, 20-23, 25, and 27 are allowable for at least the same reasons as their corresponding independent claims 1, 10, 19, 24, and 26 and are separately patentable on their own merits. For example, claim 6 further recites that “the point-to-point communication sessions are mapped to distinct VPI/VCIs (Virtual Path Identifier/Virtual Connection Identifier)” within the context of the method of claim 1 “wherein **individual accounting information is processed for each of the plurality of end user stations.**”

+ With regard to the obviousness rejection of dependent claims 8, 17, and 23, the Office Action (page 5) acknowledges a lack of teaching of the particular features of the various dependent claims and states *Wang et al.* “does not disclose the packets conform with Ethernet V2 format.” Nevertheless, the Office Action concludes that these features are obvious, despite the lack of any factual basis in the concise disclosure of *Wang et al.* This is contrary to settled law. In establishing the requisite motivation, it has been consistently held that the suggestion must stem from the prior art itself, as a whole. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Dow Chemical Co.*, 837 F.2d 469, 5 USPQ2d 1529 (Fed. Cir. 1988).

Further, to the extent that the Office Action is taking Official Notice, pursuant to the MPEP § 2144.03, Applicants respectfully traverse the Official Notice and requests the Examiner

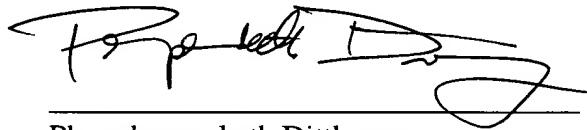
to produce references showing the claim features or withdraw the rejection as factually inadequate. In view of the foregoing, dependent claims 8, 17, and 23 should be allowed.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

DITTHAVONG & CARLSON, P.C.

3/29/04
Date



Phouphanomketh Ditthavong
Attorney/Agent for Applicant(s)
Reg. No. 44658

10507 Braddock Road
Suite A
Fairfax, VA 22032
Tel. (703) 425-8508
Fax. (703) 425-8518